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INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Communication dated 27 December 1994 from the Permanent Secretary of the Ministry of Internal Affairs of Uganda to the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Attached is a draft resolution for consideration by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

(*Signed*) F.M.K. Mugasha
Permanent Secretary

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DRAFT RESOLUTION

Recommendations on the substantive topics discussed by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind that one of the purposes of the United Nations, as stated in the Preamble to the Charter of the United Nations, is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all,

Bearing in mind also the responsibility assumed by the United Nations in the field of crime prevention and criminal justice under Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

Bearing in mind further General Assembly resolution 46/152 of 18 December 1991, on the creation of an effective United Nations crime prevention and criminal justice programme,

Recalling Economic and Social Council resolutions 1992/24 of 30 July 1992, 1993/32 of 27 July 1993 and 1994/19 of 25 July 1994, on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling also Economic and Social Council resolution 1993/34 of 27 July 1993, on the implementation of General Assembly resolutions 46/152 and 47/91 and Economic and Social Council resolution 1992/22, concerning crime prevention and criminal justice,

Recalling further Economic and Social Council resolution 1993/31 of 27 July 1993, on the strengthening of the United Nations crime prevention and criminal justice programme,

Recalling the Vienna Declaration and Programme of Action,[1] adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, in which the value of technical cooperation programmes aimed at strengthening democratic institutions, the rule of law and national human rights infrastructure was repeatedly underlined,

Recalling General Assembly resolution 48/137 of 20 December 1993, in which the Assembly recognized the central role of the administration of justice in the promotion and protection of human rights,

Concerned about the economic situation in developing countries and its negative impact on social conditions, a situation that makes crime prevention strategies difficult to implement,

Convinced of the importance of the work of the United Nations in providing a framework for the strengthening of international cooperation,

Convinced that the provision of operational activities, such as advisory services, training programmes and the dissemination and exchange of information, is one of the best means of intensifying international cooperation,

Recognizing the essential role of the United Nations, as well as the important functions of the regional institutes for the prevention of crime and the treatment of offenders, affiliated with the United Nations, in

the development of crime prevention and criminal justice strategies consistent with regional political, economic, social and cultural requirements,

Convinced that the United Nations has a significant role to play in enhancing multilateral cooperation aimed at combating crime and that the capacity of the United Nations to provide technical assistance to developing countries should be reinforced,

Welcoming the steps taken by the Commission on Crime Prevention and Criminal Justice to render the United Nations crime prevention and criminal justice programme more practical and operative,

Deeply concerned by the fact that the frequent requests by the United Nations policy-making bodies to strengthen the Crime Prevention and Criminal Justice Branch of the Secretariat and to upgrade it into a division have not yet been implemented,

Recalling Economic and Social Council resolutions 1993/29 of 27 July 1993, on the World Ministerial Conference on Organized Transnational Crime, and 1993/30 of 27 July 1993, on the control of proceeds of crime,

Aware that crime has become a major problem with national and international dimensions, hampering political, economic, social and cultural development and threatening the peace and stability of the international community,

Alarmed by the increasing dimensions and sophistication of organized transnational crime worldwide, in particular the expansion of criminal activities such as illicit drug trafficking, illicit arms trafficking, economic crime, violent activities in urban areas, alien smuggling, money-laundering, computer crime and the infiltration of legitimate economies by organized criminal groups, as well as the effects of those activities on society,

Gravely alarmed by the rapid growth of and danger posed by terrorism, a form of violent crime that threatens the security of citizens, as well as the security of their countries, international stability and the rule of law,

Alarmed by the increases in motor vehicle theft and by the amount of money earned by organized criminal groups who exploit the lack of international cooperation in efforts to prevent trafficking in stolen motor vehicles,

Recognizing the pressing need for more intensified international cooperation to combat the deleterious effects of transnational crime, particularly organized crime, including illicit drug trafficking, economic crime, corruption and the flight of capital, as well as crime against the environment and crime against the cultural patrimony,

Aware of the pressing need for increased international cooperation in order to prevent the transfer of the proceeds of illicit activities across national frontiers by criminal organizations taking advantage of gaps in international cooperation and thereby escaping detection,

Aware that the full enjoyment of human rights can be facilitated through concerted efforts by Member States to prevent and control national and transnational crime,

Concerned at the fact that criminal prosecution and the gathering of evidence are made difficult when witnesses to the commission of a crime are absent from the State in which the crime was committed,

Aware of the growing threat to society that crime against the environment represents, in particular with regard to the mismanagement and illicit dumping of hazardous waste,

Noting the seriousness of migration as a result of economic imbalance and political instability, and its multiplying effect on criminal activities,

Recalling Economic and Social Council resolutions 1992/23 of 30 July 1992, on organized crime, and 1993/27 of 27 July 1993, on proposed guidelines for the prevention of urban crime,

According central importance to matters of crime prevention and criminal justice,

Expressing the desire to pursue collectively intensive multilateral cooperation under the auspices of the United Nations,

Alarmed by the growth of urban criminality and the threat that it poses to urban and national development, in particular in the context of fragile economies and rapid social change,

I. INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

1. *Takes note* of the important processes of democratization, strengthening the rule of law and increasing transparency in States and recommends that the international community should support such efforts, as part of its contribution to sustainable development;

2. *Urges* Member States to intensify their efforts to strengthen the rule of law and to promote the use and application of United Nations standards and norms in crime prevention and criminal justice, giving due consideration to their political, economic, social and cultural conditions;

3. *Reaffirms* the importance of the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*[2] in strengthening the rule of law at the national and regional levels;

4. *Invites* Member States to enhance national and local policy planning in crime prevention and criminal justice by conducting more extensive diagnostic research and evaluation;

5. *Calls on* Member States to intensify their efforts aimed at more consolidated cooperation and coordination in crime prevention and criminal justice, in order to establish integrated and harmonized regional policies, programmes, plans and mechanisms, having due regard to common social and religious traditions and values;

6. *Calls on* States to give urgent and priority attention to intensifying subregional and regional cooperation in crime prevention and criminal justice within the framework of regional arrangements, infrastructure and mechanisms;

7. *Invites* Member States to actively support the United Nations crime prevention and criminal justice programme in organizing and carrying out operational activities in developing countries and countries in transition, by means of substantive and extrabudgetary contributions;

8. *Encourages* Member States to organize study tours and the exchange of criminal justice officials, with a view to promoting mutual understanding and to jointly developing strategies to overcome common problems;

9. *Recommends* that Member States should develop field research in criminal matters, should study the functioning of penal systems and should exchange information obtained from that research, especially in relation to forms of organized crime, illicit drug trafficking, administrative corruption and environmental crime, with a view to establishing international data banks to help Member States to conclude bilateral cooperation agreements;

10. *Strongly recommends* organizing an international event, such as a United Nations crime prevention day or week, in order to highlight the problems of crime at the global level and to emphasize the need for local, national and international action;

11. *Calls on* Member States to contribute to the United Nations Crime Prevention and Criminal Justice Fund, with a view to enabling the United Nations to implement existing and future technical assistance projects in the field of crime prevention and criminal justice;

12. *Urges* the United Nations Development Programme and the World Bank, as well as other international, regional and national funding agencies, to support technical cooperation activities devoted to strengthening the rule of law and cooperation with the United Nations crime prevention and criminal justice programme, in order to ensure proper coordination;

13. *Requests* the Secretary-General once again to give effect to General Assembly resolutions 46/152 of 18 December 1991, 47/91 of 16 December 1992 and 48/103 of 20 December 1993 and to Economic and Social Council resolutions 1992/22 of 30 July 1992 and 1993/34 of 27 July 1993 by providing the resources required to implement the United Nations crime prevention and criminal justice programme, especially in view of the increasing number of requests from Member States for technical assistance, and by upgrading the Crime Prevention and Criminal Justice Branch of the Secretariat to a division headed by a director;

14. *Encourages* the Secretary-General, as a way of strengthening the rule of law, to continue to include in peace-keeping operations the re-establishment and reform of criminal justice systems;

15. *Takes note with appreciation* of the project for the provision of practical assistance to Cambodia in the re-establishment of its criminal justice system, as well as other operational activities in various States, proposed and undertaken by the Crime Prevention and Criminal Justice Branch of the Secretariat, with a view to improving criminal justice systems and strengthening the rule of law, but at the same time laments the existing material constraints, which seriously jeopardize the success of such efforts;

16. *Requests* the Secretary-General to further strengthen operational activities in developing countries and countries in transition, by providing advisory services and training programmes and by carrying out field studies at the country level;

17. *Invites* all relevant international, intergovernmental and non-governmental organizations to continue cooperating with the United Nations in developing manuals and training curricula and in organizing courses in the various areas of crime prevention and criminal justice;

II. ACTION AGAINST TRANSNATIONAL AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

1. *Urges* Member States to consider the establishment and reinforcement of cooperation, *inter alia*, practicable arrangements for the effective prevention and control of transnational and organized crime, including the proceeds of such crime, with special emphasis on extradition and mutual assistance, in order to avoid impunity of offences committed fully or partially in different countries, taking into account the United Nations model treaties in this field;

2. *Calls on* Member States to promote further cooperation between their national crime prevention and criminal justice sectors in order to undertake international action against transnational and organized crime, such as illicit drug trafficking and illicit arms trafficking, laundering of the proceeds of crime, forgery of currency, computer crime, motor vehicle theft, crime against the cultural patrimony, and terrorism, and to improve the exchange of information, in particular at the regional level;

3. *Recommends* the adoption of an international definition of organized crime and the promotion of an exchange of views on the subject, with a view to harmonizing existing legislation;

4. *Calls on* Member States to consider the possibility of enacting appropriate legislation to combat transnational crime at both the regional level and the international level;

5. *Calls on* Member States wishing to do so to facilitate transnational criminal investigations by extending legal assistance to each other, with a view to promoting effective international cooperation in providing originals or authenticated copies and relevant records, exchanging evidence, locating and identifying persons, serving subpoenas, examining objects and places, carrying out inspections and seizures, obtaining testimony and other pertinent activities;

6. *Calls on* Member States to study ways of simplifying procedures for taking evidence in other States, waiving bank secrecy and exchanging relevant information, together with types of penalties that apply specifically to the assets of persons who have committed economic crimes;

7. *Recommends* that Member States should establish units specialized in the investigation of economic or financial crime in order to make the prevention and monitoring of such crime more effective;

8. *Urges* Member States to cooperate in identifying specific measures against corruption, bribery and the abuse of power;

9. *Also urges* Member States to cooperate in identifying and combating new forms of organized crime, particularly crime involving terrorism, regardless of its objective, which disrupts the security and stability of democratic societies through acts of violence, which constitute a dangerous form of organized crime, and to provide further assistance at the international, regional and bilateral levels in order to prevent and combat such crime effectively, including the conclusion of relevant mutual assistance agreements;

10. *Calls on* Member States to strengthen their cooperation in exchanging information on national experiences and practices regarding transnational and organized crime and terrorism and to supply on a regular basis data and other information on such experiences and practices to the Crime Prevention and Criminal Justice Branch of the Secretariat;

11. *Invites* Members States to consider ways of further strengthening international cooperation in the investigation and adjudication of transnational and organized crime by enacting appropriate legal instruments, including a convention on organized transnational crime, and by implementing legislation;

12. *Calls on* Member States to enact legal provisions, including the establishment of enforcement and monitoring mechanisms, concerning economic crime, such as corruption, fraud, embezzlement and money-laundering, each of which often constitutes a link in a larger chain of offences that have a tremendous negative impact on the economic situation of regions;

13. *Requests* Member States to refrain from registering any imported used motor vehicle without first obtaining clearance from the relevant authorities in its country of origin;

14. *Recommends* the creation of joint structures for coordinating the fight against organized criminal groups, the establishment of international procedural standards for importing used motor vehicles and the establishment of a simple procedure for returning a stolen vehicle to its country of origin;

15. *Requests* the Commission on Crime Prevention and Criminal Justice, in its review of priority themes, to place special emphasis on the development of strategies for the effective prevention and control of transnational and organized crime, as well as on the role of criminal law in the protection of the environment;

16. *Requests* the Secretary-General to establish an integrated system of periodic gathering and redissemination of information on national legislation in crime prevention and criminal justice and its implementation, and urges Member States to provide the relevant data to encourage progressive harmonization regarding, *inter alia*, international cooperation, extradition and other bilateral and multilateral modalities of mutual assistance in criminal matters;

17. *Also requests* the Secretary-General to continue studying the actual situation of transnational and organized crime and effective measures for its control;

18. *Further requests* the Secretary-General to assist Member States, upon request, in adjusting their national legislation with a view to making the prosecution and adjudication of transnational crime more effective;

19. *Further requests* the Secretary-General to ensure close coordination between the Crime Prevention and Criminal Justice Branch of the Secretariat and other United Nations entities, in particular the United Nations International Drug Control Programme, as well as the Centre for Human Rights of the Secretariat, including the sponsorship of joint activities, and to encourage further cooperation with the International Criminal Police Organization and the other international and intergovernmental bodies concerned, through joint programmes and projects.

III. CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

1. *Urges* Member States to monitor human resource development and to promote operational research aimed at designing on a more scientific basis plans to curb crime and upgrade the skills of law enforcement and criminal justice personnel, on whom successful criminal justice management depends;

2. *Invites* Member States to ensure the independence and impartiality of the judiciary and the proper functioning of prosecutorial and legal services, taking into account the Basic Principles on the Independence of the Judiciary,[3] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the Guidelines on the Role of Prosecutors[4] and the Basic Principles on the Role of Lawyers,[5] adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

3. *Urges* Member States to promote the application of non-custodial measures in order to improve the administration of justice and to reduce both the use of detention and the prison population, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules);[6]

4. *Calls on* Member States to improve the protection of victims and to strengthen their role in the criminal justice process, including restitution and compensation, in conformity with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;[7]

5. *Invites* Member States to examine ways of ensuring the most basic needs and rights of detainees and encourages the mobilization of donor countries and international funding agencies to support developing countries in their efforts to improve prison conditions;

6. *Calls on* Member States to take effective measures against the spread of the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS), as well as other diseases, among the prison population;

7. *Affirms* that it is important for law enforcement officials to respect human rights in order to ensure the effectiveness of criminal justice and policy systems and the acceptance of those systems by the local community;

8. *Calls on* Member States:

(a) To enhance the community policing approach, with a view to reducing the social distance between law enforcement officials and the public they serve, in order to provide role visibility and increasing trust and public confidence;

(b) To promote cooperation with the local population and the private sector when undertaking crime prevention activities;

9. *Recommends* that Member States should consider strengthening the role of the office of the public prosecutor, in particular strengthening its autonomy bearing in mind the Guidelines on the Role of Prosecutors, thereby facilitating the international exchange of teaching staff of schools for training in the respective disciplines;

10. *Also recommends* that Member States should adopt measures to enhance the professional calibre of staff in all sectors concerned with crime prevention and criminal justice, bearing in mind United Nations resolutions, guidelines and standards in that field;

11. *Requests* the Secretary-General to promote technical cooperation projects on penal law reform and on the modernization of criminal justice administration, particularly in the fields of data collection and computerization, the training of law enforcement officials, the promotion of non-custodial measures and prisoners' welfare, with emphasis on the observance of United Nations standards and norms such as the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), the Basic Principles

for the Treatment of Prisoners[8] and the World Health Organization Guidelines on HIV Infection and AIDS in Prison;[9]

12. *Also requests* the Secretary-General to play an active role in urging developed countries to provide support by supplying and maintaining technical aid for law enforcement agencies in developing countries;

13. *Further requests* the Secretary-General to expedite the dissemination of the *Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*,[10] which has been published pursuant to General Assembly resolution 45/110 of 14 December 1990; and welcomes the support of the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the International Penal and Penitentiary Foundation and the Asia Crime Prevention Foundation in its preparation;

IV. CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIME IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

1. *Invites* Member States to develop effective strategies and programmes for the prevention and control of urban crime, juvenile delinquency and violent crime, including domestic violence, and for the reduction of the levels of victimization, having due regard to the role of the family, the school, religion and upbringing and taking into account existing economic and social needs and conditions;

2. *Urges* Member States, in tackling the problem of urban criminality, to develop projects related to juvenile delinquency, as well as the control of crimes committed against children, in order to deal more effectively with the problem of street children and their exploitation for criminal activities;

3. *Invites* Member States to pay special attention to the pre-delinquency stage of juveniles with a view to studying the factors associated with criminality and establishing appropriate prevention mechanisms;

4. *Also invites* Member States to consider the problems arising from migratory flows, particularly with regard to the integration of aliens within various social and cultural contexts and the risks that migrants run of being victims of, or becoming involved in, criminal activities and urges Member States to take such concerns fully into account when drawing up strategies for crime prevention in urban areas;

5. *Calls on* Member States to promote the adequate control of firearms and other high-risk weapons by means of both regulations and law enforcement with a view to diminishing violent criminality;

6. *Invites* Member States to continue to actively support the organization of workshops and training programmes on the subject of urban criminality, paying specific attention to the interrelationship between urban criminality and social development;

7. *Urges* Member States to develop educational, social and other programmes based on mutual respect and tolerance in order to lower the level of violence in society, with special emphasis on the importance of conflict prevention, management, mediation and resolution mechanisms, as well as on the primordial importance of education, at all levels, and for all sectors of society, and requests the Secretary-General to develop acceptable definitions of the technical terms used in that field;

8. *Also urges* Member States to give attention to public awareness and to promote the role of information in crime prevention, and requests the Secretary-General, in collaboration with specialized research centres and experts, to prepare a manual for public awareness campaigns to be used to guide States in formulating national public awareness programmes;

9. *Further urges* Member States to adopt policies on juvenile delinquency prevention and to enact appropriate legislation on juvenile justice, taking into account the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),[11] the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)[12] and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[13] which are effective instruments to prevent juvenile delinquency and promote juvenile justice;

10. *Calls* on the regional commissions of the Economic and Social Council, the institutes comprising the United Nations crime prevention and criminal justice programme network and other relevant entities to cooperate closely with each other in planning and implementing joint activities in the area of juvenile justice;

11. *Recommends* that Member States should establish local, national and regional bodies for crime prevention and criminal justice, with the active participation of the community, recognizing that the problem of urban violence and crime in all its forms and manifestations gravely impinges on community life;

12. *Requests* the Secretary-General:

(a) To continue studying the effects of criminality in urban areas, the factors contributing to it and measures for its effective prevention, taking into consideration recent developments in sociology and technology, including environmentally sound planning, city planning and housing design;

(b) To actively organize seminars and training programmes on the prevention of criminality in urban areas;

(c) To promote technical cooperation projects on the improvement of juvenile justice systems, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).

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[1]*Report of the World Conference on Human Rights, Vienna, 14-25 June 1993* (A/CONF.157/24 (Part I)), chap. III.

[2]United Nations publication, Sales No. E.92.IV.1.

[3]See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2.

[4]See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.26.

[5]Ibid., sect. B.3.

[6]General Assembly resolution 45/110, annex, of 14 December 1990.

[7]General Assembly resolution 40/34, annex, of 29 November 1985.

[8]General Assembly resolution 45/111, annex, of 14 December 1990.

[9]WHO/GPA/DIR/93.3.

[10]ST/CSDHA/22.

[11]General Assembly resolution 40/33, annex, of 29 November 1985.

[12]General Assembly resolution 45/112, annex, of 14 December 1990.

[13]General Assembly resolution 45/113, annex, of 14 December 1990.